

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE OR CHANGE

The agency identified below in box 1 provides notice of proposed rule or change pursuant to Utah Code Subsections 63-46a-4(2) and (4). Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

State of Utah Division of Administrative Rules (DAR) 4120 State Office Building; 450 North Main PO Box 141007 Salt Lake City, UT 84114-1007 Phone: (801) 538-3218, FAX: (801) 538-1773 State E-mail: asdomain.asitmain.rules	DAR file no.:	
	Utah Admin. Code ref. (R no.):	R156-59
	Date filed:	
	Time filed:	
	Received by:	

1. Department:	Commerce
Agency:	Occupational and Professional Licensing
Room no., building:	Heber M. Wells Building - 4th Floor
Street address:	160 East 300 South
Mailing address:	PO Box 146741
City, state ZIP:	Salt Lake City UT 84114-6741
Contact person:	Dan S. Jones
Telephone:	(801) 530-6720
FAX:	(801) 530-6511
Internet E-mail:	dsjones@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. Title of rule or section (catchline):

Professional Employer Organization Act Rules

3. Type of notice:

Proposed rules	<input type="checkbox"/> New	<input type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Repeal
	<input type="checkbox"/> Repeal and reenact		
Other rule types	<input type="checkbox"/> Change in proposed rule (changes original proposed rule file no.: <input type="text"/>)		

4. Purpose of the rule or reason for the change:

The Division is repealing this rule as the rule has become outdated with the recent passage of SB 155 which deleted licensure of professional employer organizations and will now require only registration requirements for professional employer organizations. No replacement rules will be required.

5. This rule or change is a response to comments by the Administrative Rules Review Committee. ☐ Yes ☒ No

6. Summary of the rule or change:

The rule is being repealed in its entirety.

7. Aggregate anticipated cost or savings to:

State budget:	The Division anticipates minimal savings, less than \$100, to its budget by not needing to copy and distribute this rule that is being repealed.
Local government:	Rule does not apply to local governments. Therefore, there are no anticipated savings or costs to local governments

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Other persons:	The Division anticipates there will be no cost or savings impact to the professional employer organization companies beyond those created by the statute amendments in SB 155.			
8. Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):				
The Division anticipates there will be no cost or savings impact to the professional employer organization companies beyond those created by the statute amendments in SB 155.				
9. Comments by the department head on the fiscal impact the rule may have on businesses:				
This rule change is in accordance with statutory changes made in the 2003 legislative session. The rule's licensure requirements are no longer necessary due to the passage of SB 155, which substituted licensure requirements for professional employer organizations with registration requirements. This rule change does not create any fiscal impact to businesses beyond those created in SB 155. Ted Boyer, Executive Director				
10. This rule or change is authorized or mandated by state law, and implements or interprets the following state and federal laws.				
State code or constitution citations (required):		Section 58-59-101 and Subsections 58-1-106(1) and 58-1-202(1)		
Federal citations (optional):				
11. This rule or change adds or updates an incorporated reference (submit a copy to DAR):				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Reference title and date of issue or edition:				
12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.)				
Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		05/15/2003		
A public hearing (optional) will be held on (mm/dd/yyyy):		at (time):		
at (place):				
13. This rule or change may become effective on (mm/dd/yyyy):		05/16/2003		
14. Indexing information - keywords (maximum of four, in lower case):				
licensing, professional employer organization				
15. Indexing information - affected industries (two-digit SIC codes):				
n/a				
16. Attach a WordPerfect document containing the text of this rule or change (filename):				R156-59.rpl
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms may be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.				
AGENCY AUTHORIZATION				
Agency head or designee, and title:	J. Craig Jackson, Director		Date (mm/dd/yyyy):	03/24/2003

R156. Commerce, Occupational and Professional Licensing.

~~[R156-59. Professional Employer Organization Act Rules.~~

~~R156-59-101. Short Title.~~

~~These rules are known as the "Professional Employer Organization Act Rules".~~

~~R156-59-102. Reserved.~~

~~R156-59-103. Authority - Purpose.~~

~~These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 59.~~

~~R156-59-104. Organization - Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~

~~R156-59-302a. Qualifications for Licensure.~~

~~(1) In accordance with Subsection 58-59-302(4), the Division shall require the PEO's audited financial statement for the year immediately preceding the date of the license application.~~

~~(2) In accordance with Subsection 58-59-302(6), responsible managers shall document the following education and experience requirements:~~

~~(a) an earned bachelors or post graduate degree in law, accounting, finance or business administration or other related educational program approved by the Division in consultation with the Board and has a minimum of two years of full time paid experience in law, accounting, finance, business administration, management, or other related education and experience approved by the Division in consultation with the Board; or~~

~~(b) graduation from high school or have a CED equivalent and have six years of full time paid experience in accounting, finance, business administration, management, or other related experience approved by the Division in consultation with the Board.~~

~~(3) In accordance with Subsections 58-59-501(5) and 58-59-502(1), each applicant for licensure as a PEO shall submit a form of the contract to be used between the PEO and the employee and submit a form of the contract to be used between the PEO and the client company to whom leased employees are provided.~~

~~(a) The contract forms shall contain:~~

~~(i) the name and address of the PEO as filed with the Division of Corporations and Commercial Code and the name and address under which the company does business;~~

~~(ii) disclosure that the employee is under contract for the purpose of being leased to a client company;~~

~~(iii) disclosure of the identity of the entity from whom the~~

~~employee will receive compensation for work performed;~~

~~— (iv) disclosure of the total compensation, including all employee benefits, to which the employee will be entitled;~~

~~— (v) representation by the PEO that it will pay or cause to be paid when due all amounts to which the employee is entitled or which are to be paid to others, including government agencies and insurance companies; and~~

~~— (vi) disclosure of any other matter which is material in the employment of the employee by the PEO or in the leasing of the employee to a client company.~~

~~— (b) The contract forms specified in Subsection (a) shall be accompanied by a letter from legal counsel for the PEO expressing a legal opinion that the contract forms comply with the contract standards set forth in Title 58, Chapter 59, and this section.~~

~~R156-59-302b. Change in Ownership or Change in Officers, Directors, Responsible Managers or Other Persons Who Have Controlling Interest.~~

~~— (1) In accordance with Subsections 58-59-302(5) and (6) and 58-59-502(2), any change in ownership or change in officers, directors, responsible managers who have signatory authority over fiduciary funds or other persons who have a controlling interest in a licensed PEO shall require submission of a criminal background check satisfactory to the Division within 10 days after the change.~~

~~— (2) In accordance with Subsection 58-59-302(5), responsible managers shall require submission of evidence in a form prescribed by the Division that the new responsible manager has the education and experience requirements set forth in Subsection R156-59-302a(4) within 10 days after the change.~~

~~R156-59-306. Financial Filing Requirements.~~

~~— In accordance with Subsection 58-59-306(1), the quarterly reports prepared by an independent CPA shall be submitted in accordance with the following schedule:~~

~~— (a) March 31 for the quarter ending December 31;~~

~~— (b) June 30 for the quarter ending March 31;~~

~~— (c) September 30 for the quarter ending June 30; and~~

~~— (d) December 31 for the quarter ending September 30.~~

~~R156-59-502. Process for Obtaining Prior Written Approval for Sales, Transfers or Entering Into Contracts which Commits the Licensee to Make Future Payments.~~

~~— In accordance with Subsection 58-59-502(4), in order to obtain prior written approval from the Division for sales, transfers or entering into contracts which commits the licensee to make future payments, the PEO shall submit:~~

~~— (1) an application for licensure, if the event or events listed~~

~~in Subsection 58-59-502(4) results in or would require the creation of a new business entity; or~~

~~(2) a verification prepared by an independent certified public accountant stating that upon completion of the event or events listed in Subsection 58-59-502(4) the PEO will have a minimum adjusted net worth of \$50,000 or 5% of the total adjusted liabilities, whichever is greater.~~

~~KEY: licensing, professional employer organization~~

~~August 1, 2002 58-1-106(1)~~

~~Notice of Continuation January 9, 2003 58-1-202(1)~~

~~58-59-101]~~